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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/884,729	06/19/2001	Luis A. Davila	CRD-0938	2529	
27777 7	590 12/26/2002				
AUDLEY A. CIAMPORCERO JR.			EXAMINER		
JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA			GILPIN, CR	GILPIN, CRYSTAL M	
NEW BRUNS	VICK, NJ 08933-7003		ART UNIT	PAPER NUMBER	
			3738		
			DATE MAILED: 12/26/2003	DATE MAILED: 12/26/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

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Office Action Summary    Capital M Glipin   3738		Application No.	Applicant(s)				
Crystal M Gilpin   3738   37		09/884,729	DAVILA ET AL.	$\cap$ M			
The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MALING DATE OF THIS COMMUNICATION.  The period for reply specified above is less has hirty (50 days, a reply within the satutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply within the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply with the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply with the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply with the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply with the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days, a reply to limit the period of the period of the statutory minarum of thirty (30) days will be considered timely.  If the period for reply specified above is less has hirty (50) days and less than the period of the minarum of thirty (30) days will be considered timely.  If approved, communication is objected to by the Examiner.  Application of Pagers  Priority under 35 U.S.C. §§ 119 and 120  If his action is final minarum of the provisional application has been received.  If period copies of the priority documents have been received in his National Stage application from the International Bureau (PCT Rule 17.2(a)).  See the attached detailed Office action for a bits of the cartified copies not received.  If	Office Action Summary	Examiner	Art Unit	<del></del>			
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extraolized for time to be available under the provisions of 30 CPR 1.156(a). In no event, however, may a reply be timely filed  If the period for reply secfied above, the maximum statutory gends within the statutory minimum of thinty (GI) days, will be considered timely.  If the period for reply secfied above, the maximum statutory gends will apply and will expire SIX (b) MONTHS from the mailing date of this communication. Period for reply is paceful as the first the minimum statutory gends will apply and will expire SIX (b) MONTHS from the mailing date of this communication, even if trenely filed, may reduce any canned patent term adjustment. See 37 CPR 1.704(b).  Status  1) Responsive to communication(s) filled on							
THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 3° CFR 1.13(a). In no event, however, may a reply be timely filed after SIX (i) MONTHS from the mailing date of this communication.  False to reply within the sel or extended period for reply will, by statutory minimum of thiny (30) days will be considered timely.  It NO period to reply is sended below, the maximum statutory period will apply and will expect SK (e) MONTHS from the mailing date of this communication.  False to reply within the sel or extended period for reply will, by statute, cause the application to become ABANDONED (38 U.S.C.§ 133).  Any reply received by the Office and in the International sharp the time altering date of this communication, even if timely filed, may reduce any  Any reply received by the Communication (s) filed on  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Queyle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-31 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  8) Claim(s) 1-31 are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  11) The proposed drawings correction filed on is allowed.  12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  14) Acknowle		ears on the cover sheet with the c	orrespondence add	ress			
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## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

 Claims 1-27, drawn to an intraluminal medical device, classified in class 623, subclass 1.15.

II. Claims 28-31, drawn to a method of manufacturing an intraluminal device, classified in class 29, subclass 592. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the prosthesis of invention I could be made by a different process such as wrapping the tubular member around the marker instead of forming the two separately.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Carl J. Evens on 18 December 2002. to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Crystal M Gilpin whose telephone number is 703-305-8122. The examiner can normally be reached on M-F, 7:30-5:30 (Second Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 703-308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9301 for regular communications and 703-872-9301 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

cmg

December 23, 2002

CORRINE McDERMOTT SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700